

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

SOOK STERLING,

Debtor.

Chapter 7

Case No. 19-10132-scc

STRATEGIC FUNDING SOURCE, INC.

Plaintiff,

v.

IN SOOK STERLING,
MTK 38 INC.,
JAY ENTERTAINMENT CORP.,
9 EAST 38TH STREET REALTY LLC and
JOHN DOE

Defendants.

Adv. Pro. No. 19-01111-scc

ANSWER TO AMENDED COMPLAINT

Defendant 9 East 38th Street Realty LLC (the “Defendant”), by and through its undersigned counsel, hereby responds (the “Answer”) to the *Amended Complaint* (the “Complaint”) filed by Plaintiff Strategic Funding Source, Inc. (the “Plaintiff”) and states as follows:

JURISDICTION AND VENUE

1. The allegations contained in paragraph 1 of the Complaint contain legal conclusions to which no response is required. To the extent any response is required, the allegations are denied.

2. The allegations contained in paragraph 2 of the Complaint contain legal conclusions to which no response is required. To the extent any response is required, the allegations are denied.

3. The allegations contained in paragraph 3 of the Complaint contain legal conclusions to which no response is required. To the extent any response is required, the allegations are denied.

4. The allegations contained in paragraph 4 of the Complaint contain legal conclusions to which no response is required. To the extent any response is required, the allegations are denied.

5. The allegations contained in paragraph 5 of the Complaint contain legal conclusions to which no response is required. To the extent any response is required, the allegations are denied.

6. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 6 of the Complaint.

THE PARTIES

7. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 7 of the Complaint.

8. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 8 of the Complaint.

9. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 9 of the Complaint.

10. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 10 of the Complaint.

11. Defendant admits the allegations contained in paragraph 11 of the Complaint.

12. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 12 of the Complaint.

13. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 13 of the Complaint.

GENERAL ALLEGATIONS

14. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 14 of the Complaint.

15. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 15 of the Complaint.

16. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 16 of the Complaint.

SPECIFIC FACTUAL ALLEGATIONS

17. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 17 of the Complaint.

18. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 18 of the Complaint.

19. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 19 of the Complaint.

20. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 20 of the Complaint.

21. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 21 of the Complaint.

22. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 22 of the Complaint.

23. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 23 of the Complaint.

24. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 24 of the Complaint.

25. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 25 of the Complaint.

26. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 26 of the Complaint.

27. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 27 of the Complaint.

28. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 28 of the Complaint.

29. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 29 of the Complaint.

30. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 30 of the Complaint.

31. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 31 of the Complaint.

32. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 32 of the Complaint.

33. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 33 of the Complaint.

34. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 34 of the Complaint.

35. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 35 of the Complaint.

36. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 36 of the Complaint.

37. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 37 of the Complaint.

38. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 38 of the Complaint.

39. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 39 of the Complaint.

40. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 40 of the Complaint.

41. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 41 of the Complaint.

42. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 42 of the Complaint.

43. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 43 of the Complaint.

44. Defendant denies the allegations contained in paragraph 44 of the Complaint.

45. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 45 of the Complaint.

46. Defendant denies the allegations contained in paragraph 46 of the Complaint.

COUNT I

47. Defendant repeats and reasserts its responses to paragraphs 1 through 46 of the Complaint as if set forth fully herein.

48. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 48 of the Complaint.

49. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 49 of the Complaint.

50. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 50 of the Complaint.

51. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 51 of the Complaint.

52. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 52 of the Complaint.

53. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 53 of the Complaint.

54. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 54 of the Complaint.

55. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 55 of the Complaint.

56. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 56 of the Complaint.

57. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 57 of the Complaint.

COUNT II

58. Defendant repeats and reasserts its responses to paragraphs 1 through 57 of the Complaint as if set forth fully herein.

59. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 59 of the Complaint.

60. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 60 of the Complaint.

61. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 61 of the Complaint.

62. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 62 of the Complaint.

63. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 63 of the Complaint.

64. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 64 of the Complaint.

65. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 65 of the Complaint.

66. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 66 of the Complaint.

67. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 67 of the Complaint.

68. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 68 of the Complaint.

69. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 69 of the Complaint.

COUNT III

70. Defendant repeats and reasserts its responses to paragraphs 1 through 69 of the Complaint as if set forth fully herein.

71. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 71 of the Complaint.

72. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 72 of the Complaint.

73. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 73 of the Complaint.

74. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 74 of the Complaint.

75. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 75 of the Complaint.

76. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 76 of the Complaint.

77. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 77 of the Complaint.

78. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 78 of the Complaint.

79. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 79 of the Complaint.

80. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 80 of the Complaint.

81. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 81 of the Complaint.

82. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 82 of the Complaint.

83. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 83 of the Complaint.

84. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 84 of the Complaint.

85. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 85 of the Complaint.

86. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 86 of the Complaint.

87. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 87 of the Complaint.

88. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 88 of the Complaint.

89. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 89 of the Complaint.

COUNT IV

90. Defendant repeats and reasserts its responses to paragraphs 1 through 89 of the Complaint as if set forth fully herein.

91. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 91 of the Complaint.

92. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 92 of the Complaint.

93. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 93 of the Complaint.

94. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 94 of the Complaint.

95. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 95 of the Complaint.

96. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 96 of the Complaint.

97. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 97 of the Complaint.

98. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 98 of the Complaint.

COUNT V

99. Defendant repeats and reasserts its responses to paragraphs 1 through 98 of the Complaint as if set forth fully herein.

100. Defendant denies the allegations contained in paragraph 100 of the Complaint.

101. Defendant denies the allegations contained in paragraph 101 of the Complaint.

102. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 102 of the Complaint.

103. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 103 of the Complaint.

104. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 104 of the Complaint.

105. Defendant denies the allegations contained in paragraph 105 of the Complaint.

106. Defendant denies the allegations contained in paragraph 106 of the Complaint.

COUNT VI

107. Defendant repeats and reasserts its responses to paragraphs 1 through 106 of the Complaint as if set forth fully herein.

108. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 108 of the Complaint.

109. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 109 of the Complaint.

110. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 110 of the Complaint.

111. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 111 of the Complaint.

112. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 112 of the Complaint.

113. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 113 of the Complaint.

114. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 114 of the Complaint.

115. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 115 of the Complaint.

116. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 116 of the Complaint.

117. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 117 of the Complaint.

118. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 118 of the Complaint.

119. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 119 of the Complaint.

120. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 120 of the Complaint.

121. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 121 of the Complaint.

122. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 122 of the Complaint.

COUNT VII

123. Defendant repeats and reasserts its responses to paragraphs 1 through 123 of the Complaint as if set forth fully herein.

124. Paragraph 124 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph 124 of the Complaint.

125. Paragraph 125 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph 125 of the Complaint.

126. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 126 of the Complaint.

127. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 127 of the Complaint.

128. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 128 of the Complaint.

129. Paragraph 129 contains a legal conclusion to which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph 129 of the Complaint.

130. Defendant denies the allegations contained in paragraph 130 of the Complaint.

131. Paragraph 131 contains a legal conclusion to which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph 131 of the Complaint.

132. Defendant denies the allegations contained in paragraph 132 of the Complaint.

COUNT VIII

133. Defendant repeats and reasserts its responses to paragraphs 1 through 132 of the Complaint as if set forth fully herein.

134. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 134 of the Complaint.

135. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 135 of the Complaint.

136. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 136 of the Complaint.

137. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 137 of the Complaint.

138. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 138 of the Complaint.

139. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 139 of the Complaint.

140. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 140 of the Complaint.

COUNT IX

141. Defendant repeats and reasserts its responses to paragraphs 1 through 140 of the Complaint as if set forth fully herein.

142. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 142 of the Complaint.

143. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 143 of the Complaint.

144. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 144 of the Complaint.

145. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 145 of the Complaint.

146. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 146 of the Complaint.

147. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 147 of the Complaint.

148. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 148 of the Complaint.

149. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations contained in paragraph 149 of the Complaint.

150. Paragraph 150 contains legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations contained in paragraph 150 of the Complaint.

COUNT X

151. Defendant repeats and reasserts its responses to paragraphs 1 through 150 of the Complaint as if set forth fully herein.

152. Defendant denies the allegations contained in paragraph 152 of the Complaint.

153. Defendant denies the allegations contained in paragraph 153 of the Complaint.

154. Defendant denies the allegations contained in paragraph 154 of the Complaint.

155. Defendant denies the allegations contained in paragraph 155 of the Complaint.

156. Defendant denies the allegations contained in paragraph 156 of the Complaint.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Plaintiff fails to state a claim upon which relief can be granted.

Second Affirmative Defense

Plaintiff's claims are barred, in whole or in part, because Plaintiff lacks standing.

Third Affirmative Defense

Plaintiff's claims are barred, in whole or in part, because Plaintiff does not have a valid, perfected, first priority lien on the Collateral (as defined in the Complaint) and any other property Plaintiff alleges was converted by Defendant (collectively, the "Property").

Fourth Affirmative Defense

Plaintiff's claims are barred, in whole or in part, because Plaintiff lacks any ownership and/or possessory interest in the Property.

Fifth Affirmative Defense

Plaintiff's claims are barred, in whole or in part, because Defendant received the Property in good faith and in exchange for fair consideration and reasonably equivalent value.

Sixth Affirmative Defense

At all relevant times, Debtor and MTK (each as defined in the Complaint) were solvent.

Seventh Affirmative Defense

Plaintiff's claims are barred, in whole or in part, by estoppel, waiver, election of remedies, laches, res judicata, ratification, collateral estoppel or other equitable doctrines.

Eighth Affirmative Defense

Plaintiff's claims are barred, in whole or in part, by the *in pari delicto* and/or unclean hands doctrines.

Ninth Affirmative Defense

Plaintiff's claims are barred, in whole or in part, by Plaintiff's failure to mitigate any damages.

Tenth Affirmative Defense

The relief requested is barred, in whole or in part, to the extent that Plaintiff can claim no right to attorneys' fees.

Eleventh Affirmative Defense

Assuming *arguendo* that Plaintiff sustained any losses, injuries or damages, either as alleged in the Complaint or at all, such damages are adequately compensated in an action at law for damages. Accordingly, Plaintiff has a complete and adequate remedy at law and is not entitled to any equitable relief.

Twelfth Affirmative Defense

The Complaint is barred, in whole or in part, by the statute of limitations.

Thirteenth Affirmative Defense

With respect to the alleged rights, claims and obligations that Plaintiff seeks to enforce against Defendant, Defendant owed no duty to Plaintiff, and, therefore, Defendant is not liable to Plaintiff for damages.

Fourteenth Affirmative Defense

Plaintiff's claims are barred, in whole or in part, because any harm and/or damages that Plaintiff alleges to have sustained were caused and brought about, if at all, by the acts, conduct or omissions of individuals and/or entities other than Defendant.

RESERVATION OF RIGHTS

Defendant gives notice that it relies upon such other defenses as may become available and apparent in the course of discovery, and therefore, reserves the right to amend this Answer to assert such defenses so that the Defendant can provide meaningful responses to the allegations.

WHEREFORE, Defendant respectfully requests that this Court dismiss the Complaint of the Plaintiff with prejudice, deny any and all relief requested by the Plaintiff, award the Defendant its costs and disbursements, and grant such other and further relief as the Court deems just and equitable.

Dated: New York, New York
October 15, 2020

DAVIS & GILBERT LLP

/s/ Jesse B. Schneider
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